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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/613,925	07/11/2000	David S. Breed	ATI-236	1547

22846 7590 09/24/2003
BRIAN ROFFE, ESQ
11 SUNRISE PLAZA, SUITE 303
VALLEY STREAM, NY 11580-6170

EXAMINER

BARFIELD, ANTHONY DERRELL

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 09/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/613,925

Applicant(s)

BREED, DAVID S.

Examiner

Anthony D Barfield

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-- Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 30 June 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26,27,29-75 and 77-84 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 26,27,29-43,45,46,48,50-60,62-71,73-75,77-82 and 84-87 is/are rejected.
- 7) ☒ Claim(s) 44,47,49,61,72,83 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

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DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 37-43,45-46,48,50-59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsuura in view of Breed (Great Britain 2289786). Matsuura shows the use of a pre-inflated cushioning arrangement (10) prior to contact by an occupant and all of the teachings of the claimed invention except the use of anticipatory crash sensor for determining that a crash is about to occur. Breed teaches the use of a vehicle having an anticipatory crash sensor for determining that crash is about to occur. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the vehicle of Matsuura with the anticipatory crash sensor, open cell foam and stretch seam, as taught by Breed in order to properly locate the cushion arrangement prior to an accident while providing additional support. Furthermore the method steps as recited would have been incorporated within the use of the invention, as taught by Matsuura in view of Breed.

3. Claims 26-27,29-36,60,62-71,73-75,77-82 and 84-87 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakanishi in view of Smittle. Nakanishi shows the use of a cushioning

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arrangement (20) but fails to show the cushioning arrangement having a single fluid-containing bag therein. Smittle discloses a vehicle having frame (12) therein and a fluid-containing bag (16) attached to the frame. A deformable cover inherently surrounds the frame and bag having constraining means (22) constrains the flow of the fluid from an upper portion to a lower portion. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the cushioning arrangement of Nakanishi with all of the teachings of the claimed invention in order to prevent impact on a user's head and back in case of rapid decompression. Furthermore the method steps as recited would have been incorporated within the use of the invention, as taught by Nakanishi in view of Smittle.

Allowable Subject Matter

4. Claims 44,47,49,61,72,83 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

5. Applicant's arguments filed 6/30/03 have been fully considered but they are not persuasive. In response to applicant's argument that Matsuura and Breed do not disclose, teach or suggest a preinflated airbag...which is movable toward a likely position of an occupant", the examiner is of the opinion that the combination of Matsuura and Breed does in fact show a movable

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“preinflated” cushioning arrangement which is movable (when a load is applied thereon) and would be movable to a position as determined by an anticipatory device so far as defined by the claims. Furthermore In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Breed teaches the use of an anticipatory sensor for determining a crash and moving the cushioning arrangement as inflation is not necessary because Matsuura has a “preinflated” cushioning arrangement.

In response to applicant's arguments with respect to Nakanishi in view of Smittle, applicant is directed to the above rejection and again the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in

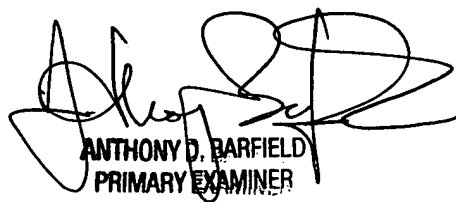
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the references themselves or in the knowledge generally available to one of ordinary skill in the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony D. Barfield whose telephone number is (703) 308-2158.



ANTHONY D. BARFIELD
PRIMARY EXAMINER

adb

September 22, 2003